



US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Public Notice Number: 200300007

Date: May 6, 2004

Comments Due: June 6, 2004

In reply, please refer to the Public Notice Number

SUBJECT: The U.S. Army Corps of Engineers (USACE), Sacramento District is evaluating a permit application to construct the Vineyards at Marsh Creek project. This notice is to inform interested parties of the proposed project and to solicit comments. This notice may also be viewed at the USACE website at <http://www.spk.usace.army.mil/cespk-co/regulatory/PNs/index.html>.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material into waters of the United States.

APPLICANT: Mr. Matt Beinke, Vineyards at Marsh Creek, LLC, 3820 Blackhawk Road, Danville, CA 94526. Phone: 925-736-1571, Fax: 925-736-0309.

LOCATION: The project site is located in Township 1 North, 2 East, MDB&M south of the City of Brentwood in Contra Costa County, California.

PROJECT DESCRIPTION: The 481-acre project site includes approximately 2.3 acres of waters of the United States. The proposed project would result in a loss of 1.33 acres of waters of the United States including ponds, seasonal wetlands and Marsh Creek. The proposed project is an active-adult residential community and associated commercial uses. It includes 1,057 active-adult units, 128 single-family estate lots, approximately 40 acres reserved for a village center that includes commercial development, office development, a hotel and conference center, senior apartments, senior care facilities, and multi-family residential units. In addition, approximately 30 acres are proposed for development of a winery with a hotel and amphitheater. The project improvements include the extension of Fairview Avenue across Marsh Creek for a new connection to Marsh Creek Road. Construction of a clear spanning bridge over Marsh Creek is proposed. The proposed project will also include construction of two water quality/detention basins and three stormwater outfalls into Marsh Creek.

ADDITIONAL INFORMATION:

Environmental Setting. Site topography ranges in elevation from 125 to 390 feet above mean sea level. Livestock currently graze the site, which is dominated by non-native annual grasslands typical of the region. Surrounding land use consists of orchards east of Marsh Creek, suburban residential development and a golf course to the north, and undeveloped grasslands recently acquired by California State Parks to the west and south. Onsite aquatic features include four stock ponds, several seasonal wetlands, and four intermittent drainages that flow from west to east across the site. Alkali meadow, grassland, and scalds are also present in isolated locations along the drainages. A small portion of Marsh Creek and associated riparian forest is located within the northeastern project boundary.

Alternatives. The applicant has provided alternatives information for the project pursuant to the Environmental Protection Agency's 404 (b)(1) guidelines. Additional information is available from the applicants agent Sycamore Associates, 2099 Mount Diablo Boulevard, Suite 204, Walnut Creek, California 94596, telephone (925) 279-0580.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. Proposed project impacts to waters of the United States, including wetlands, total 1.33 acre. The applicant has not proposed specific mitigation to compensate for this loss of waters.

Other Governmental Authorizations: State Section 401 water quality certification is a prerequisite for the issuance of a Department of the Army permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to the Clean Water Act (33 U.S.C. Section 1431).

Endangered Species: Three of the stock ponds on the project site (totaling 0.80 acre) support breeding California tiger salamanders (*Ambystoma californiense*), federally proposed as Threatened, and the site provides California tiger salamander upland dispersal and aestivation habitat. The site provides suitable foraging habitat, denning opportunities, and a potential movement corridor for the San Joaquin kit fox (*Vulpes macrotis mutica*), federally-listed as Endangered. Critical Habitat was designated in August 2003 for federally-listed vernal pool crustaceans. Portions of the project site are within Critical Habitat Unit 19A for the vernal pool fairy shrimp (*Branchinecta lynchi*), federally-listed as Threatened. Within the project area, 22 seasonal wetlands totaling 0.21 acre provide potential habitat for the vernal pool fairy shrimp. Two of the four distinct seasonal wetlands groups located on site were determined occupied by the vernal pool fairy shrimp during protocol-level surveys conducted during the 1996-1998 wet seasons. The proposed project will remove all seasonal wetlands on site and impact Marsh Creek. Since the proposed project may affect federally-listed species or designated Critical Habitat, the Corps has initiated consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service pursuant to Section 7 of the Endangered Species Act, as appropriate.

ESSENTIAL FISH HABITAT: The proposed project may adversely affect Essential Fish Habitat. The Corps has initiated consultation with the National Marine Fisheries Service, pursuant to Magnuson-Stevens Fishery Conservation and Management Act, as appropriate.

Historic Properties: The applicant has stated that Holmes and Associates is preparing a cultural resources report for the project site. The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Preservation Act, as appropriate.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230), or of their criteria.

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above.

Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice 200300007, must be submitted to the office listed below on or before June 2, 2004:

William Guthrie, Project Manager
US Army Corps of Engineers, Sacramento District
Delta Office
1325 J Street, Room 1480
Sacramento, California 95814-2922
Email: William.H.Guthrie@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager William Guthrie, 916-557-5269, William.H.Guthrie@usace.army.mil.

Attachments: 9 drawings